

**To:** CN=Peter Silva/OU=DC/O=USEPA/C=US@EPA[]  
**Cc:** CN=Lori Keyton/OU=DC/O=USEPA/C=US@EPA;CN=Tanya  
 Code/OU=DC/O=USEPA/C=US@EPA;CN=Laura  
 Yoshii/OU=R9/O=USEPA/C=US@EPA;CN=Karen  
 Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Gregory  
 Peck/OU=DC/O=USEPA/C=US@EPA;CN=Shawna  
 Bergman/OU=DC/O=USEPA/C=US@EPA;CN=Lee  
 Schroer/OU=DC/O=USEPA/C=US@EPA;CN=Lynn  
 Zipf/OU=DC/O=USEPA/C=US@EPA;CN=Mike  
 Shapiro/OU=DC/O=USEPA/C=US@EPA;CN=Suzanne  
 Schwartz/OU=DC/O=USEPA/C=US@EPA;CN=Virginia  
 Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
 N=Tanya Code/OU=DC/O=USEPA/C=US@EPA;CN=Laura  
 Yoshii/OU=R9/O=USEPA/C=US@EPA;CN=Karen  
 Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Gregory  
 Peck/OU=DC/O=USEPA/C=US@EPA;CN=Shawna  
 Bergman/OU=DC/O=USEPA/C=US@EPA;CN=Lee  
 Schroer/OU=DC/O=USEPA/C=US@EPA;CN=Lynn  
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 N=Laura Yoshii/OU=R9/O=USEPA/C=US@EPA;CN=Karen  
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 Schroer/OU=DC/O=USEPA/C=US@EPA;CN=Lynn  
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 N=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Gregory  
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 N=Gregory Peck/OU=DC/O=USEPA/C=US@EPA;CN=Shawna  
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 Schroer/OU=DC/O=USEPA/C=US@EPA;CN=Lynn  
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 Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
 N=Shawna Bergman/OU=DC/O=USEPA/C=US@EPA;CN=Lee  
 Schroer/OU=DC/O=USEPA/C=US@EPA;CN=Lynn  
 Zipf/OU=DC/O=USEPA/C=US@EPA;CN=Mike  
 Shapiro/OU=DC/O=USEPA/C=US@EPA;CN=Suzanne  
 Schwartz/OU=DC/O=USEPA/C=US@EPA;CN=Virginia

Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
N=Lynn Zipf/OU=DC/O=USEPA/C=US@EPA;CN=Mike  
Shapiro/OU=DC/O=USEPA/C=US@EPA;CN=Suzanne  
Schwartz/OU=DC/O=USEPA/C=US@EPA;CN=Virginia  
Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
N=Mike Shapiro/OU=DC/O=USEPA/C=US@EPA;CN=Suzanne  
Schwartz/OU=DC/O=USEPA/C=US@EPA;CN=Virginia  
Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
N=Suzanne Schwartz/OU=DC/O=USEPA/C=US@EPA;CN=Virginia  
Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[];  
N=Virginia Kibler/OU=DC/O=USEPA/C=US@EPA;CN=Roger  
Gorke/OU=DC/O=USEPA/C=US@EPA[]; N=Roger Gorke/OU=DC/O=USEPA/C=US@EPA[]  
**From:** CN=Robert Wood/OU=DC/O=USEPA/C=US  
**Sent:** Wed 9/23/2009 8:21:22 PM  
**Subject:** Bay Delta MOU and (9/30) Public Meeting  
[mou-092209 clean version.doc](#)

Hi Pete: I'll need to fill you in on today's CEQ meeting on Bay Delta, but not able to do a full meeting summary right now. Key points are:

The MOU will need to be signed next week by LPJ (also Salazar, Vilsack, Darcy, Locke and Sutley). We need a plan to get there. I think another conversation to include you and Laura (maybe Bob Sussman too) is needed and then a conversation among you Laura and LPJ, probably to include Diane Thompson. In the meantime CEQ has promised more information on how they see the signature drill working across agencies.

The public meeting chaired by Secretary Salazar is on for Wednesday 9/30 at Interior. It is on your calendar for 8:45-9:45. Based on today's meeting you should plan to stay until 10. There will be technical presentations from 8 to 9 so if you feel like going early, you could catch some of those. From 9-10, Secretary Salazar will speak and each of the CA congressional delegation will be given an opportunity to speak. CEQ has promised additional guidance on whether there is a speaking role for agency principals; seems unlikely to me there will be enough time for it, but we'll see what they say. CEQ is preparing some generic talking points and promised to provide them to us.

A group of California stakeholders working on BDCP want to meet with the key federal agencies to bring us up to speed on what is happening with the Bay Delta Conservation Plan and the federal role. They are: Environmental Defense Fund, The Nature Conservancy, Westlands, Metropolitan Water District, and the State Water Contractors. They would like to meet at 11:00 next Thursday morning at Interior. Your calendar is booked; who do you want to represent EPA this meeting next Thursday?

Finally, for now, the current draft of the MOU is attached. We made further changes to it during today's meeting that are not reflected here. The next version should be coming tomorrow. OGC is aware they need to review the final version and I've copied Lee Schroer here so he'll be in the loop.

Rob

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Acting Deputy Director  
Office of Wetlands Oceans and Watersheds  
Room 7130A EPA West  
202-566-1822

----- Forwarded by Robert Wood/DC/USEPA/US on 09/23/2009 03:52 PM -----

From: Letty\_Belin@ios.doi.gov  
To: "Klasen, Matthew N." <(b) (6)> "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>, "Hight, Courtney" <(b) (6)> joellen.darcy@us.army.mil, JReich@doc.gov, "Kelly Denit" <Kelly.Denit@noaa.gov>, "Boots, Michael J." <(b) (6)> mlconnor@usbr.gov, Monica.medina@noaa.gov, Robert.Bonnie@osec.usda.gov, "Nuzum, Robert S." <(b) (6)> rock.salt@us.army.mil, Peter Silva/DC/USEPA/US@EPA, tanya.dobrzynski@noaa.gov, theodore.a.brown@usace.army.mil, Robert Wood/DC/USEPA/US@EPA  
Cc: Laura Yoshii/R9/USEPA/US@EPA  
Date: 09/23/2009 03:44 PM  
Subject: Re: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT

A group of california stakeholders working on BDCP want to meet with the key federal agencies to bring us up to speed on what is happening with the Bay Delta Conservation Plan and the federal role. They are: Environmental Defense Fund, The Nature Conservancy, Westlands, Metropolitan Water District, and the State Water Contractors. They would like to meet at 11:00 next Thursday morning here at DOI. Can you or someone from your agencies attend the meeting? It can be our first "action" after we sign the MOU!! Please let me know ASAP as they are doing their scheduling now. Thanks a lot.

Letty

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291

**CALIFORNIA BAY-DELTA  
MEMORANDUM OF UNDERSTANDING  
AMONG FEDERAL AGENCIES**

**I. RECITALS**

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the nation. The Bay-Delta is a source of drinking water for more than 22 million people; it supports a \$28 billion agricultural industry; and, until recently, the Delta has supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries. California is in the third year of drought. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the federal government reestablish its leadership role in Bay-Delta matters, working in partnership with the State of California and interested stakeholders. Much has been done over the years to address problems in the Bay-Delta, and this Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the federal government and other key stakeholders.

**II. PURPOSE**

(a) The purpose of this MOU is to confirm the federal commitment to work in partnership with the State of California and diverse stakeholders to exercise their full authorities and apply sound science to provide for a high quality, reliable and sustainable long-term water supply for California, and restore the environmental integrity and sustainability of the Bay-Delta ecosystem.

(b) This MOU establishes a structure for coordinating and streamlining the actions of the federal agencies with primary responsibilities and authority over key aspects of the Bay-Delta and its tributaries to facilitate advancing the federal commitment to this critical ecosystem.

**III. PARTIES**

The parties to this MOU are:

- (a) The United States Department of the Interior (DOI), which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law;
- (b) The United States Environmental Protection Agency (USEPA), which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law;
- (c) The United States Department of Commerce (Commerce), which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) and other applicable law;
- (d) The United States Army Corps of Engineers (Corps), which has jurisdiction pursuant to flood control, water supply, flood risk reduction, aquatic ecosystem restoration authorities, the Clean Water Act, and other applicable law.
- (e) The United States Department of Agriculture (USDA), which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.
- (f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

#### **IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE**

- (a) The Secretary of the Interior (Secretary) and/or his designee will represent the Administration as the lead for developing and coordinating federal policy and commitments in Bay-Delta matters.
- (b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in Bay-Delta matters.
- (c) Coordination among the federal agencies will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the

Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary .

(d) The Federal Bay-Delta Leadership Committee will meet on a periodic basis to develop and coordinate federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, review of projects and operations intended to address short and medium term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Participating agencies shall use budget crosscut authority to the extent feasible in furtherance of the purposes of this MOU.

## **V. FEDERAL WORK PLAN**

(a) The parties commit to develop, by December 15, 2009, a coordinated federal workplan outlining near term actions that will be taken on Bay-Delta issues. The workplan will be developed in furtherance of the purposes set forth in this MOU by the Federal Bay-Delta Leadership Committee in close coordination with the parties' regional offices having authority over the Bay-Delta region and in consultation with the State of California and other interested stakeholders. In developing the workplan, the parties will set near term goals and will review and prioritize actions to achieve those goals.

(b) This workplan may include, but is not limited to, actions on the following issues:

(i) Expanding an interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Identifying and expediting habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Addressing water quality threats to the Delta through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency regulatory efforts with such actions;

(iv) Integrating flood risk and levee stabilization efforts with water supply and species recovery;

(v) Developing and expanding projects aimed at mitigating and adapting to the effects of climate change on Delta stability;

(vi) Developing a coordinated process for undertaking regulatory actions by federal agencies in the Bay-Delta including, but not limited to, the potential co-

location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel and a review of current agreements and regulatory activities in the Bay-Delta;

(vii) Accelerating Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and

(viii) Encouraging conservation, recycling, and efficiencies in water use.

(c) As this workplan is developed and implementation begins, the parties and their regional offices will coordinate closely with the State of California and diverse stakeholders, and ensure that there is open and ongoing communication throughout.

## **VI. MISCELLANEOUS PROVISIONS**

(a) Nothing in this MOU is intended to restrict the authority of any party to act as provided by law, statute or regulation.

(b) This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the parties, their officers or employees, or any other person. This MOU does not direct or apply to any person other than the parties.

(c) This MOU is to take effect upon the signature of the parties and remain in effect for a period of five years. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by providing written notice to the other parties at least thirty days in advance of the desired termination date.

(d) As required by the Antideficiency Act, 31 U.S.C. Sections 1341 and 1342, all commitments in this MOU are subject to the availability of appropriated funds. Nothing in this MOU, in and of itself, obligates any signatory agency to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with agency budget priorities. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

## **VI. SIGNATURES**

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**To:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Laura Yoshii/OU=R9/O=USEPA/C=US@EPA[]; N=Laura Yoshii/OU=R9/O=USEPA/C=US@EPA[]  
**Cc:** CN=Lynn Zipf/OU=DC/O=USEPA/C=US@EPA;CN=Gregory Peck/OU=DC/O=USEPA/C=US@EPA;CN=Tanya Code/OU=DC/O=USEPA/C=US@EPA[]; N=Gregory Peck/OU=DC/O=USEPA/C=US@EPA;CN=Tanya Code/OU=DC/O=USEPA/C=US@EPA[]; N=Tanya Code/OU=DC/O=USEPA/C=US@EPA[]  
**From:** CN=Robert Wood/OU=DC/O=USEPA/C=US  
**Sent:** Fri 9/25/2009 7:37:24 PM  
**Subject:** Fw: new version of MOU  
[mou-092509.docx](#)  
[mailto:Letty\\_Belin@ios.doi.gov](mailto:Letty_Belin@ios.doi.gov)

These changes look good to me. Less top down on the workplan process than before. OGC is reviewing and I should hear from them before the end of the day. Will keep you posted.

Rob

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Acting Deputy Director  
Office of Wetlands Oceans and Watersheds  
Room 7130A EPA West  
202-566-1822

----- Forwarded by Robert Wood/DC/USEPA/US on 09/25/2009 03:35 PM -----

From: Letty\_Belin@ios.doi.gov  
To: "Klasen, Matthew N." <(b) (6)>  
Cc: "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>, "Hight, Courtney" <(b) (6)>, "David Nawi" <david@dnmediation.com>, Eileen\_Sobeck@ios.doi.gov, Roger Gorke/DC/USEPA/US@EPA, joellen.darcy@us.army.mil, JReich@doc.gov, "Kelly Denit" <Kelly.Denit@noaa.gov>, "Boots, Michael J." <(b) (6)>, mlconnor@usbr.gov, Monica.medina@noaa.gov, Robert.Bonnie@osec.usda.gov, "Nuzum, Robert S." <(b) (6)>, lock.salt@us.army.mil, "Ericsson, Sally C." <(b) (6)>, Peter Silva/DC/USEPA/US@EPA, tanya.dobrzynski@noaa.gov, theodore.a.brown@usace.army.mil, Robert Wood/DC/USEPA/US@EPA, wood.robert@epamail.epa.gov, Laura Yoshii/R9/USEPA/US@EPA  
Date: 09/25/2009 03:20 PM  
Subject: new version of MOU

sorry to be so late in sending this latest version of the MOU around.

Letty Belin  
Counselor to the Deputy Secretary  
[letty\\_belin@ios.doi.gov](mailto:letty_belin@ios.doi.gov)  
202-208-6291

From: "Klasen, Matthew N." <(b) (6)>  
To: <Letty\_Belin@ios.doi.gov>, <wood.robert@epamail.epa.gov>, <gorke.roger@epamail.epa.gov>, "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>, "Hight, Courtney"



(b) (6) <joellen.darcy@us.army.mil>, <JReich@doc.gov>, "Kelly Denit"  
<Kelly.Denit@noaa.gov>, "Boots, Michael J." (b) (6) <mconnor@usbr.gov>,  
<Monica.medina@noaa.gov>, <Robert.Bonnie@osec.usda.gov>, "Nuzum, Robert S."  
(b) (6) <rock.salt@us.army.mil>, "Ericsson, Sally C."  
<silva.peter@epa.gov>, <tanya.dobrzynski@noaa.gov>,  
<theodore.a.brown@usace.army.mil>, <wood.robert@epa.gov>, <yoshii.laura@epa.gov>,  
<Eileen\_Sobeck@ios.doi.gov>  
Cc: "David Nawi" <david@dnmediation.com>  
Date: 09/22/2009 03:07 PM  
Subject: RE: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT -- attendee list requested

Thanks Letty, looking forward to discussing the updated draft tomorrow.

As a reminder, tomorrow's meeting will be from 11:30-12:30 EDT in the Eisenhower Room (second floor) of the White House Conference Center, located at 726 Jackson Place NW (between CEQ's townhouses on Jackson Place.) The call-in number for tomorrow is (b) (6) (Hopefully we're more successful with the conference line than last time.)

Also, please send a list of in-person attendees from your agency to us by 9 am tomorrow morning so we're aware for our records.

Thanks, and let me know if you have any questions.

Best,  
Matt

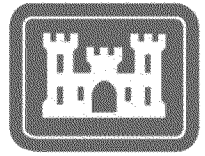
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Matt Klasen  
White House Council on Environmental Quality  
734 Jackson Place NW  
Washington DC 20503  
(b) (6)

From: Letty\_Belin@ios.doi.gov [mailto:Letty\_Belin@ios.doi.gov]  
Sent: Tuesday, September 22, 2009 12:42 PM  
To: Klasen, Matthew N.; wood.robert@epamail.epa.gov; gorke.roger@epamail.epa.gov; Hagelin, Andrew Mr CIV USA ASA CW; Hight, Courtney; joellen.darcy@us.army.mil; JReich@doc.gov; Kelly Denit; Boots, Michael J.; mconnor@usbr.gov; Monica.medina@noaa.gov; Robert.Bonnie@osec.usda.gov; Nuzum, Robert S.; rock.salt@us.army.mil; Ericsson, Sally C.; silva.peter@epa.gov; tanya.dobrzynski@noaa.gov; theodore.a.brown@usace.army.mil; wood.robert@epa.gov; yoshii.laura@epa.gov; Eileen\_Sobeck@ios.doi.gov  
Cc: David Nawi  
Subject: Re: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT

Hi all: I attach a new clean draft of the MOU for your review. We tried to incorporate either your comments or the concepts of the comments as best we could. We look forward to discussing this tomorrow -- sorry to be so late in sending this around. Thanks a lot,  
Letty

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291

DRAFT 9/25/09



**CALIFORNIA BAY-DELTA  
MEMORANDUM OF UNDERSTANDING  
AMONG FEDERAL AGENCIES**

**I. RECITALS**

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the nation. The Bay-Delta is a source of drinking water for more than 22 million people; it supports a \$28 billion agricultural industry; and the Delta and its watershed have supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy. The Bay-Delta is also the heart and a critical crossroads of the delivery system that transports water from Northern California to agricultural and urban water users south of the Delta.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries and have contributed to the collapse of the State of California's (State) salmon fishing industry. The State is in the third year of drought with the consequent decreased water supplies contributing further to the problems. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the federal government reestablish a leadership role in Bay-Delta matters, working in partnership with the State and interested stakeholders. This Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the federal government, the State, and other key stakeholders.

**II. VISION AND PURPOSE**

(a) The federal parties envision a healthy and sustainable Bay-Delta ecosystem that provides for a high-quality, reliable and sustainable long-term water supply for California, and restores the environmental integrity and sustainability of the system.

(b) This MOU confirms the commitment of the federal parties to work in partnership with the State and diverse stakeholders to use their authorities and apply sound science in achieving the purpose of the MOU.

## CONFIDENTAL PRE-DECISIONAL DELIBERATIVE DOCUMENT

DRAFT 9/25/09

(c) This MOU establishes a structure for coordinating and streamlining the actions of the federal agencies with primary federal responsibilities and authority over key aspects of the Bay-Delta and its tributaries to advance the federal role in this critical ecosystem.

### **III. PARTIES**

The parties to this MOU are:

(a) The United States Department of the Interior, which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.), and other applicable law;

(b) The United States Environmental Protection Agency, which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), and other applicable law;

(c) The United States Department of Commerce, which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. Section 1801 et seq.) and other applicable law;

(d) The United States Army Corps of Engineers, which has jurisdiction pursuant to flood control, and water resource development statutes, section 10 of the Rivers and Harbors Act of 1899, section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408) and section 404 of the Clean Water Act (33 U.S.C. Section 1344), and other applicable law.

(e) The United States Department of Agriculture, which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. Section 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.) and other applicable law.

### **IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE**

(a) The Secretary of the Interior (Secretary) and/or his designee will serve as the lead for developing and coordinating federal policy and initiatives in Bay-Delta matters.

(b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in

DRAFT 9/25/09

Bay-Delta matters.

(c) Coordination among the federal parties will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary.

(d) The Federal Bay-Delta Leadership Committee will meet on a regular basis to develop and coordinate federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, encouragement of land stewardship and water conservation activities, review of projects and operations intended to address short- and medium- term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Regional offices of the participating agencies will provide for the close and effective coordination of their actions and participation in matters affecting the Bay-Delta.

## **V. FEDERAL WORK PLAN**

(a) By December 15, 2009, the Federal Bay-Delta Leadership Committee will develop, in consultation with the State and other interested stakeholders, a coordinated federal work plan outlining near-term federal actions that will be taken in furtherance of the purposes set forth in this MOU. In developing the work plan, the Leadership Committee, in close coordination with the parties' regional offices, will set near-term, performance-based goals and will review and prioritize actions across agencies to achieve those goals.

(b) This work plan may include, but is not limited to, actions on the following issues:

(i) An interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Water quality threats to the Delta (through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency actions with such a program);

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DRAFT 9/25/09

- (iv) Flood risk and levee stabilization efforts balanced with water supply and species recovery;
  - (v) Projects aimed at mitigating and adapting to the effects of climate change on Delta stability;
  - (vi) A coordinated process for undertaking regulatory actions by federal agencies in the Bay-Delta including, but not limited to, consolidation of scientific review by and the potential co-location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel, and a review of current agreements and regulatory activities in the Bay-Delta;
  - (vii) Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and
  - (viii) Conservation, recycling, and efficiencies in water use, and land stewardship activities that benefit the Bay-Delta ecosystem..
- (c) As this work plan is developed and implementation begins, the parties and their regional offices will coordinate the parties' actions closely with the State and diverse stakeholders, and ensure that there is open and ongoing communication throughout.
- (d) This work plan will be modified as deemed necessary by the parties in order to adapt to new circumstances and events.
- (e) As the Leadership Committee develops the near-term work plan, it will begin to identify and prioritize key longer-term Federal actions and resources to achieve the purpose of this MOU and incorporate such actions within a longer term plan.

**VI. MISCELLANEOUS PROVISIONS**

- (a) This MOU is not intended to, and does not, restrict the authority of any party to act as provided by law, statute or regulation.
- (b) This MOU addresses the activities of the parties, and as such does not address (and thus does not restrict) the activities and authorities of any other federal agency or office.
- (c) This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any person against the United States, its departments, agencies, or entities, its officers, employees, or agents, any other person.
- (d) This MOU will take effect upon the signature of all of the parties, and it will remain in effect for a period of five years from the date on which it takes effect. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by

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DRAFT 9/25/09

providing written notice to the other parties at least thirty days in advance of the desired termination date.

(e) As required by the Antideficiency Act, 31 U.S.C. Sections 1341, 1342, and 1517, all activities of the parties in implementing this MOU are subject to the availability of appropriated funds. Nothing in this MOU obligates any of the parties to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

**VI. SIGNATURES**

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Ken Salazar  
Secretary  
Department of the Interior

---

Nancy Sutley  
Chair  
Council on Environmental Quality

---

Gary Locke  
Secretary  
Department of Commerce

---

Tom Vilsack  
Secretary  
Department of Agriculture

---

Lisa P. Jackson  
Administrator  
Environmental Protection Agency

---

Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
Department of the Army

**To:** Abigail Gaudario[]  
**Cc:** Karen Schwinn;Alexis Strauss[]; lexis Strauss[]  
**From:** CN=Laura Yoshii/OU=R9/O=USEPA/C=US  
**Sent:** Tue 9/22/2009 4:56:08 PM  
**Subject:** Fw: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT  
[mou-092209 clean version.doc](#)

Pls fax.  
Karen,  
Pls provide me any comments you may have.  
Pls do not distribute.  
Sent by EPA Wireless E-Mail Services

From: Letty\_Belin  
Sent: 09/22/2009 12:41 PM AST  
To: "Klasen, Matthew N." <(b) (6)>; wood.robert@epamial.epa.gov; Roger Gorke; "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>; "Hight, , Courtney" <(b) (6)>; joellen.darcy@us.army.mil; JReich@doc.gov; "Kelly Denit" <Kelly.Denit@noaa.gov>; "Boots, Michael J." <(b) (6)>; hlconnor@usbr.gov; Monica.medina@noaa.gov; Robert.Bonnie@osec.usda.gov; "Nuzum, Robert S." <(b) (6)>; rock.salt@us.army.mil; "Ericsson, Sally C." <(b) (6)>; Peter Silva; tanya.dobrzynski@noaa.gov; theodore.a.brown@usace.army.mil; Robert Wood; Laura Yoshii; Eileen\_Sobeck@ios.doi.gov  
Cc: "David Nawi" <david@dnmediation.com>  
Subject: Re: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT

Hi all: I attach a new clean draft of the MOU for your review. We tried to incorporate either your comments or the concepts of the comments as best we could. We look forward to discussing this tomorrow -- sorry to be so late in sending this around. Thanks a lot,  
Letty

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291



**CALIFORNIA BAY-DELTA  
MEMORANDUM OF UNDERSTANDING  
AMONG FEDERAL AGENCIES**

**I. RECITALS**

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the nation. The Bay-Delta is a source of drinking water for more than 22 million people; it supports a \$28 billion agricultural industry; and, until recently, the Delta has supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries. California is in the third year of drought. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the federal government reestablish its leadership role in Bay-Delta matters, working in partnership with the State of California and interested stakeholders. Much has been done over the years to address problems in the Bay-Delta, and this Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the federal government and other key stakeholders.

**II. PURPOSE**

(a) The purpose of this MOU is to confirm the federal commitment to work in partnership with the State of California and diverse stakeholders to exercise their full authorities and apply sound science to provide for a high quality, reliable and sustainable long-term water supply for California, and restore the environmental integrity and sustainability of the Bay-Delta ecosystem.

(b) This MOU establishes a structure for coordinating and streamlining the actions of the federal agencies with primary responsibilities and authority over key aspects of the Bay-Delta and its tributaries to facilitate advancing the federal commitment to this critical ecosystem.

**III. PARTIES**

The parties to this MOU are:

- (a) The United States Department of the Interior (DOI), which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law;
- (b) The United States Environmental Protection Agency (USEPA), which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law;
- (c) The United States Department of Commerce (Commerce), which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) and other applicable law;
- (d) The United States Army Corps of Engineers (Corps), which has jurisdiction pursuant to flood control, water supply, flood risk reduction, aquatic ecosystem restoration authorities, the Clean Water Act, and other applicable law.
- (e) The United States Department of Agriculture (USDA), which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.
- (f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

#### **IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE**

- (a) The Secretary of the Interior (Secretary) and/or his designee will represent the Administration as the lead for developing and coordinating federal policy and commitments in Bay-Delta matters.
- (b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in Bay-Delta matters.
- (c) Coordination among the federal agencies will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the

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(e) Participating agencies shall use budget crosscut authority to the extent feasible in furtherance of the purposes of this MOU.

## **V. FEDERAL WORK PLAN**

(a) The parties commit to develop, by December 15, 2009, a coordinated federal workplan outlining near term actions that will be taken on Bay-Delta issues. The workplan will be developed in furtherance of the purposes set forth in this MOU by the Federal Bay-Delta Leadership Committee in close coordination with the parties' regional offices having authority over the Bay-Delta region and in consultation with the State of California and other interested stakeholders. In developing the workplan, the parties will set near term goals and will review and prioritize actions to achieve those goals.

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(ii) Identifying and expediting habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Addressing water quality threats to the Delta through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency regulatory efforts with such actions;

(iv) Integrating flood risk and levee stabilization efforts with water supply and species recovery;

(v) Developing and expanding projects aimed at mitigating and adapting to the effects of climate change on Delta stability;

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location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel and a review of current agreements and regulatory activities in the Bay-Delta;

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## **VI. SIGNATURES**

[     ]

**To:** Abigail Gaudario[]  
**From:** CN=Laura Yoshii/OU=R9/O=USEPA/C=US  
**Sent:** Tue 9/22/2009 4:56:25 PM  
**Subject:** Fw: MOU  
[mou-092209 clean version.doc](#)

Pls fax.  
Sent by EPA Wireless E-Mail Services

From: Letty\_Belin  
Sent: 09/22/2009 12:52 PM AST  
To: Laura Yoshii  
Subject: Fw: MOU

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291  
----- Forwarded by Letty Belin/SIO/OS/DOI on 09/22/2009 12:51 PM -----

From: Letty Belin/SIO/OS/DOI  
To: "Klasen, Matthew N." (b) (6) wood.robert@epamial.epa.gov,  
gorke.roger@epamail.epa.gov, "Hagelin, Andrew Mr CIV USA ASA CW"  
<andrew.hagelin@conus.army.mil>, "Hight, Courtney" (b) (6)  
joellen.darcy@us.army.mil, JReich@doc.gov, "Kelly Denit" <Kelly.Denit@noaa.gov>, "Boots, Michael J."  
(b) (6) mlconnor@usbr.gov, Monica.medina@noaa.gov,  
Robert.Bonnie@osec.usda.gov, "Nuzum, Robert S." (b) (6)  
rock.salt@us.army.mil, "Ericsson, Sally C." (b) (6) silva.peter@epa.gov,  
tanya.dobrzynski@noaa.gov, theodore.a.brown@usace.army.mil, wood.robert@epa.gov,  
yoshii.laura@epa.gov, eileen sobeck  
Cc: "David Nawi" <david@dnmediation.com>  
Date: 09/22/2009 12:41 PM  
Subject: Re: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT

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[     ]

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**Cc:** Abigail Gaudario[]  
**From:** CN=Laura Yoshii/OU=R9/O=USEPA/C=US  
**Sent:** Wed 9/23/2009 4:05:28 PM  
**Subject:** Fw: 11:30 meeting today  
[MOUsept22dnredline.doc](#)

Abi,  
Pls fax to hotel  
Sent by EPA Wireless E-Mail Services

From: "Boots, Michael J." (b) (6)  
Sent: 09/23/2009 12:02 PM AST  
To: "Boling, Edward A." (b) (6) Laura Yoshii; <tanya.dobrzynski@noaa.gov>  
Subject: Fw: 11:30 meeting today

From: Letty\_Belin@ios.doi.gov  
To: Boots, Michael J.  
Sent: Wed Sep 23 09:58:16 2009  
Subject: 11:30 meeting today

Hi Mike:

For our 11:30 meeting today, obviously MOU review is the main item but here is a draft agenda for you to add to:

- \* brief update (appropriations rider, USDA drought declaration, California legislative update, anything else?)
- \* reminder about coordinating our public communications/actions relating to Bay Delta (e.g., we had no idea that USDA was going to do a drought declaration)
- \* update on Sept. 30th meeting
- \* review and edit MOU

David Nawi just sent me a few more redlines, including some language on consolidation -- attached. Any problem if I send this around? Thanks.  
LEtty

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291

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(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries. California is in the third year of drought. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. The condition of the Bay-Delta has resulted in significant curtailments of deliveries to water users south of the Delta. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

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- (c) The United States Department of Commerce (Commerce), which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) and other applicable law;
- (d) The United States Army Corps of Engineers (Corps), which has jurisdiction pursuant to flood control, water supply, flood risk reduction, aquatic ecosystem restoration authorities, the Clean Water Act, and other applicable law.
- (e) The United States Department of Agriculture (USDA), which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.
- (f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

### **IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE**

- (a) The Secretary of the Interior (Secretary) and/or his designee will represent the Administration as the lead for developing and coordinating federal policy and commitments in Bay-Delta matters.
- (b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in Bay-Delta matters.

(c) Coordination among the federal agencies will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary .

(d) The Federal Bay-Delta Leadership Committee will meet on a periodic basis to develop and coordinate federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, review of projects and operations intended to address short and medium term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Participating agencies shall use budget crosscut authority to the extent feasible in furtherance of the purposes of this MOU.

(f) Regional offices of the participating agencies will establish a structure that provides for the close and effective coordination of their actions and participation in matters affecting the Bay-Delta.

## **V. FEDERAL WORK PLAN**

(a) The parties commit to develop, by December 15, 2009, a coordinated federal workplan outlining near term actions that will be taken on Bay-Delta issues. The workplan will be developed in furtherance of the purposes set forth in this MOU by the Federal Bay-Delta Leadership Committee in close coordination with the parties' regional offices having authority over the Bay-Delta region and in consultation with the State of California and other interested stakeholders. In developing the workplan, the parties will set near term goals and will review and prioritize actions to achieve those goals.

(b) This workplan may include, but is not limited to, actions on the following issues:

(i) Expanding an interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Identifying and expediting habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Addressing water quality threats to the Delta through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency regulatory efforts with such actions;

(iv) Integrating flood risk and levee stabilization efforts with water supply and species recovery;

(v) Developing and expanding projects aimed at mitigating and adapting to the effects of climate change on Delta stability;

(vi) Developing a coordinated process for undertaking regulatory actions by federal agencies in the Bay-Delta including, but not limited to, consolidation of scientific review by and the potential co-location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel, and a review of current agreements and regulatory activities in the Bay-Delta;

(vii) Accelerating Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and

(viii) Encouraging conservation, recycling, and efficiencies in water use.

(c) As this workplan is developed and implementation begins, the parties and their regional offices will coordinate closely with the State of California and diverse stakeholders, and ensure that there is open and ongoing communication throughout.

## **VI. MISCELLANEOUS PROVISIONS**

(a) Nothing in this MOU is intended to restrict the authority of any party to act as provided by law, statute or regulation.

(b) This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the parties, their officers or employees, or any other person. This MOU does not direct or apply to any person other than the parties.

(c) This MOU is to take effect upon the signature of the parties and remain in effect for a period of five years. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by providing written notice to the other parties at least thirty days in advance of the desired termination date.

(d) As required by the Antideficiency Act, 31 U.S.C. Sections 1341 and 1342, all commitments in this MOU are subject to the availability of appropriated funds. Nothing in this MOU, in and of itself, obligates any signatory agency to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with agency budget priorities. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

## **VI. SIGNATURES**

[     ]

**To:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA[]  
**Cc:** []  
**Bcc:** []  
**From:** CN=Abigail Gaudario/OU=R9/O=USEPA/C=US  
**Sent:** Fri 9/25/2009 7:21:01 PM  
**Subject:** Fw: new version of MOU  
[mou-092509.docx](#)  
[mailto:Letty\\_Belin@ios.doi.gov](mailto:Letty_Belin@ios.doi.gov)

----- Forwarded by Abigail Gaudario/R9/USEPA/US on 09/25/2009 12:19 PM -----

From: Letty\_Belin@ios.doi.gov  
To: "Klasen, Matthew N." <(b) (6)>  
Cc: "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>, "Hight, Courtney" <(b) (6)>, "David Nawi" <david@dnmediation.com>, Eileen\_Sobeck@ios.doi.gov, Roger Gorke/DC/USEPA/US@EPA, joellen.darcy@us.army.mil, JReich@doc.gov, "Kelly Denit" <Kelly.Denit@noaa.gov>, "Boots, Michael J." <(b) (6)>, mlconnor@usbr.gov, Monica.medina@noaa.gov, Robert.Bonnie@osec.usda.gov, "Nuzum, Robert S." <(b) (6)>, rock.salt@us.army.mil, "Ericsson, Sally C." <(b) (6)>, Peter Silva/DC/USEPA/US@EPA, tanya.dobrzynski@noaa.gov, theodore.a.brown@usace.army.mil, Robert Wood/DC/USEPA/US@EPA, wood.robert@epamial.epa.gov, Laura Yoshii/R9/USEPA/US@EPA  
Date: 09/25/2009 12:20 PM  
Subject: new version of MOU

sorry to be so late in sending this latest version of the MOU around.

Letty Belin  
Counselor to the Deputy Secretary  
[letty\\_belin@ios.doi.gov](mailto:letty_belin@ios.doi.gov)  
202-208-6291

From: "Klasen, Matthew N." <(b) (6)>  
To: <Letty\_Belin@ios.doi.gov>, <wood.robert@epamial.epa.gov>, <gorke.roger@epamail.epa.gov>, "Hagelin, Andrew Mr CIV USA ASA CW" <andrew.hagelin@conus.army.mil>, "Hight, Courtney" <(b) (6)>, <joellen.darcy@us.army.mil>, <JReich@doc.gov>, "Kelly Denit" <Kelly.Denit@noaa.gov>, "Boots, Michael J." <(b) (6)>, <mlconnor@usbr.gov>, <Monica.medina@noaa.gov>, <Robert.Bonnie@osec.usda.gov>, "Nuzum, Robert S." <(b) (6)>, <rock.salt@us.army.mil>, "Ericsson, Sally C." <(b) (6)>, <silva.peter@epa.gov>, <tanya.dobrzynski@noaa.gov>, <theodore.a.brown@usace.army.mil>, <wood.robert@epamial.epa.gov>, <yoshii.laura@epa.gov>, <Eileen\_Sobeck@ios.doi.gov>  
Cc: "David Nawi" <david@dnmediation.com>  
Date: 09/22/2009 03:07 PM



Subject: RE: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT -- attendee list requested

Thanks Letty, looking forward to discussing the updated draft tomorrow.

As a reminder, tomorrow's meeting will be from 11:30-12:30 EDT in the Eisenhower Room (second floor) of the White House Conference Center, located at 726 Jackson Place NW (between CEQ's townhouses on Jackson Place.) The call-in number for tomorrow is (b) (6). Hopefully we're more successful with the conference line than last time.)

Also, please send a list of in-person attendees from your agency to us by 9 am tomorrow morning so we're aware for our records.

Thanks, and let me know if you have any questions.

Best,  
Matt

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Matt Klasen  
White House Council on Environmental Quality  
734 Jackson Place NW  
Washington DC 20503

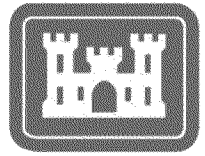
(b) (6)

From: Letty\_Belin@ios.doi.gov [mailto:Letty\_Belin@ios.doi.gov]  
Sent: Tuesday, September 22, 2009 12:42 PM  
To: Klasen, Matthew N.; wood.robert@epamail.epa.gov; gorke.roger@epamail.epa.gov; Hagelin, Andrew Mr CIV USA ASA CW; Hight, Courtney; joellen.darcy@us.army.mil; JReich@doc.gov; Kelly Denit; Boots, Michael J.; mlconnor@usbr.gov; Monica.medina@noaa.gov; Robert.Bonnie@osec.usda.gov; Nuzum, Robert S.; rock.salt@us.army.mil; Ericsson, Sally C.; silva.peter@epa.gov; tanya.dobrzynski@noaa.gov; theodore.a.brown@usace.army.mil; wood.robert@epa.gov; yoshii.laura@epa.gov; Eileen\_Sobeck@ios.doi.gov  
Cc: David Nawi  
Subject: Re: Next Bay-Delta meeting: Next Wed 9/23, 11:30-12:30 EDT

Hi all: I attach a new clean draft of the MOU for your review. We tried to incorporate either your comments or the concepts of the comments as best we could. We look forward to discussing this tomorrow -- sorry to be so late in sending this around. Thanks a lot,  
Letty

Letty Belin  
Counselor to the Deputy Secretary  
letty\_belin@ios.doi.gov  
202-208-6291

DRAFT 9/25/09



**CALIFORNIA BAY-DELTA  
MEMORANDUM OF UNDERSTANDING  
AMONG FEDERAL AGENCIES**

**I. RECITALS**

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the nation. The Bay-Delta is a source of drinking water for more than 22 million people; it supports a \$28 billion agricultural industry; and the Delta and its watershed have supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy. The Bay-Delta is also the heart and a critical crossroads of the delivery system that transports water from Northern California to agricultural and urban water users south of the Delta.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries and have contributed to the collapse of the State of California's (State) salmon fishing industry. The State is in the third year of drought with the consequent decreased water supplies contributing further to the problems. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the federal government reestablish a leadership role in Bay-Delta matters, working in partnership with the State and interested stakeholders. This Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the federal government, the State, and other key stakeholders.

**II. VISION AND PURPOSE**

(a) The federal parties envision a healthy and sustainable Bay-Delta ecosystem that provides for a high-quality, reliable and sustainable long-term water supply for California, and restores the environmental integrity and sustainability of the system.

(b) This MOU confirms the commitment of the federal parties to work in partnership with the State and diverse stakeholders to use their authorities and apply sound science in achieving the purpose of the MOU.

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(c) This MOU establishes a structure for coordinating and streamlining the actions of the federal agencies with primary federal responsibilities and authority over key aspects of the Bay-Delta and its tributaries to advance the federal role in this critical ecosystem.

### **III. PARTIES**

The parties to this MOU are:

(a) The United States Department of the Interior, which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.), and other applicable law;

(b) The United States Environmental Protection Agency, which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), and other applicable law;

(c) The United States Department of Commerce, which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. Section 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. Section 1801 et seq.) and other applicable law;

(d) The United States Army Corps of Engineers, which has jurisdiction pursuant to flood control, and water resource development statutes, section 10 of the Rivers and Harbors Act of 1899, section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408) and section 404 of the Clean Water Act (33 U.S.C. Section 1344), and other applicable law.

(e) The United States Department of Agriculture, which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. Section 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.) and other applicable law.

### **IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE**

(a) The Secretary of the Interior (Secretary) and/or his designee will serve as the lead for developing and coordinating federal policy and initiatives in Bay-Delta matters.

(b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in

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Bay-Delta matters.

(c) Coordination among the federal parties will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary.

(d) The Federal Bay-Delta Leadership Committee will meet on a regular basis to develop and coordinate federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, encouragement of land stewardship and water conservation activities, review of projects and operations intended to address short- and medium- term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Regional offices of the participating agencies will provide for the close and effective coordination of their actions and participation in matters affecting the Bay-Delta.

## **V. FEDERAL WORK PLAN**

(a) By December 15, 2009, the Federal Bay-Delta Leadership Committee will develop, in consultation with the State and other interested stakeholders, a coordinated federal work plan outlining near-term federal actions that will be taken in furtherance of the purposes set forth in this MOU. In developing the work plan, the Leadership Committee, in close coordination with the parties' regional offices, will set near-term, performance-based goals and will review and prioritize actions across agencies to achieve those goals.

(b) This work plan may include, but is not limited to, actions on the following issues:

(i) An interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Water quality threats to the Delta (through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency actions with such a program);

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- (iv) Flood risk and levee stabilization efforts balanced with water supply and species recovery;
  - (v) Projects aimed at mitigating and adapting to the effects of climate change on Delta stability;
  - (vi) A coordinated process for undertaking regulatory actions by federal agencies in the Bay-Delta including, but not limited to, consolidation of scientific review by and the potential co-location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel, and a review of current agreements and regulatory activities in the Bay-Delta;
  - (vii) Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and
  - (viii) Conservation, recycling, and efficiencies in water use, and land stewardship activities that benefit the Bay-Delta ecosystem..
- (c) As this work plan is developed and implementation begins, the parties and their regional offices will coordinate the parties' actions closely with the State and diverse stakeholders, and ensure that there is open and ongoing communication throughout.
- (d) This work plan will be modified as deemed necessary by the parties in order to adapt to new circumstances and events.
- (e) As the Leadership Committee develops the near-term work plan, it will begin to identify and prioritize key longer-term Federal actions and resources to achieve the purpose of this MOU and incorporate such actions within a longer term plan.

## VI. MISCELLANEOUS PROVISIONS

- (a) This MOU is not intended to, and does not, restrict the authority of any party to act as provided by law, statute or regulation.
- (b) This MOU addresses the activities of the parties, and as such does not address (and thus does not restrict) the activities and authorities of any other federal agency or office.
- (c) This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any person against the United States, its departments, agencies, or entities, its officers, employees, or agents, any other person.
- (d) This MOU will take effect upon the signature of all of the parties, and it will remain in effect for a period of five years from the date on which it takes effect. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by

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providing written notice to the other parties at least thirty days in advance of the desired termination date.

(e) As required by the Antideficiency Act, 31 U.S.C. Sections 1341, 1342, and 1517, all activities of the parties in implementing this MOU are subject to the availability of appropriated funds. Nothing in this MOU obligates any of the parties to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

**VI. SIGNATURES**

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Ken Salazar  
Secretary  
Department of the Interior

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Nancy Sutley  
Chair  
Council on Environmental Quality

---

Gary Locke  
Secretary  
Department of Commerce

---

Tom Vilsack  
Secretary  
Department of Agriculture

---

Lisa P. Jackson  
Administrator  
Environmental Protection Agency

---

Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
Department of the Army